

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

ANTHONY STEPHENS,

Plaintiff,

v.

CIVIL ACTION NO. 3:17-3930

C.I. HERITAGE OF BARBOURSVILLE, LP and
T.M.I. PROPERTY MANAGEMENT, LLC,
both d/b/a Barboursville Comfort Inn,
Foreign Corporations,

Defendants.

ORDER

On June 20, 2018, a Stipulation of Dismissal pursuant to Rule 41(a)(2) of the Federal Rule of Civil Procedure was filed. Rule 41(a)(2) states that “except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” Rule 41(a)(1)(A) states that “the plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.”

In this instance the Stipulation was signed by all parties who have appeared and, accordingly, the parties should have stipulated to voluntary dismissal pursuant to Rule 41(a)(1)(A)(ii), not Rule 41(a)(2). Although unnecessary, the Court enters this Order and **DISMISSES** this action with prejudice.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: June 21, 2018

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE